

**STATE OF MAINE  
PUBLIC UTILITIES COMMISSION**

**DIXFIELD WATER DEPARTMENT** )  
 )  
**RE: Proposed Rate Change Under** )  
**35-A M.R.S.A. Section 6104** )  
 )  
**Docket No. 2002-425** )

**STIPULATION AGREEMENT**

**March 21, 2003**

This Stipulation is an agreement entered into by the Dixfield Water Department, a division of the Town of Dixfield (hereinafter, "Water Department," or "Department"), the Public Advocate, and by Sonya Fuller and Brenda Turbide, both of whom are customers of the Water Department; all of whom shall hereinafter be referred to as "the parties."

**I. PURPOSE**

The purpose of this Stipulation is to resolve the issues raised by the rate filing of the Dixfield Water Department that was submitted September 3, 2002, pursuant to 35-A M.R.S.A Section 6104. By filing this Stipulation, the parties are agreeing to a plan under which the Water Department may put new rates into effect. The parties are also agreeing to several other conditions that are intended (a) to resolve difficulties encountered by the Water Department and its customers, and (b) to adopt a procedure for handling the Water Department's next rate change in an efficient and expedient way.

By this Stipulation, the parties seek to avoid further discovery and hearings on the Water Department's proposed increase in revenues. The Stipulation is also being submitted to expedite the Public Utilities Commission's consideration and resolution of this proceeding.

**II. PROCEDURAL HISTORY**

On July 22, 2002, the Dixfield Water Department submitted its "informational" rate filing to the Public Utilities Commission, pursuant to 35-A M.R.S.A. Section 6104. On August 22, 2002, the Water Department held a rate-case public meeting in Dixfield, as required under Section 6104. Thereafter, Sonya Fuller, Brenda Turbide and 121 other ratepayers submitted a petition to the Commission requesting that the Commission suspend and investigate the Water Department's proposed rates. Specifically, the petition asked the Commission to investigate the following issues:

1. Whether the proposed 26.5% increase in the Water Department's revenues is reasonable;
2. Whether the Dixfield Water Department has taken steps necessary to trim its operation and maintenance costs;

3. Whether the Water Department used Water Department funds to pave portions of a road that had not been dug up and repaved for the purposes of replacing a water main; and
4. Whether the Water Department, with due speed, is taking the steps necessary to reduce the level of lead in its water distribution system.

On September 27, 2002, the Water Department filed a letter at the Commission responding to the petition and stating, in part, that because the current Town Manager and current Public Works Director had been hired in December 2001 and January 2000 respectively, the Water Department was not able to provide answers to all questions asked about the Department's operations and past practices. (In Dixfield the Town Manager acts as the chief executive officer of the Water Department.)

**Governance.** The Water Department submitted its rate filing pursuant to 35-A M.R.S.A. Section 6104 because it is a municipal water utility or consumer-owned water utility under Title 35-A. The Water Department serves approximately 600 customers in and around the village of Dixfield. The Water Department is governed by the five selectmen of the Town of Dixfield, who are elected by the approximately 2,500 residents of Dixfield. At the time of the rate filing two of the five selectmen were customers of the Water Department.

**Technical Conference.** On Tuesday, January 14, 2003, the Public Advocate, the PUC Advisory Staff, the Water Department and the other parties participated in a technical conference at the Dixfield Town Office, at which representatives of the Water Department responded to questions about the Department's rate filing, and about the Water Department's service. Questions were raised about the allocation of labor costs, equipment costs and common costs that are shared between the Town and the Water Department.<sup>1</sup> The Water Department and the Town of Dixfield indicated that general time records had not been kept for Water Department employees, so that it would be difficult to estimate 2003 operation and maintenance costs with accuracy. Furthermore, the Operator/Trainee who had worked for the Department in 2001 (and who possessed an operator's license) left employment at the Water Department in September 2002. The Water Department indicated that it has no plans to replace that employee. Also, the Water Department noted that its records did not include any figures for the costs of certain employees or equipment shared with the Town and its other departments. Finally, as noted in the 2001 Auditor's Report for the Water Department, it is recommended that the Water Department implement internal control measures, so that its accounting system will capture more accurately the actual costs of Water Department operations.

**Lack of Known and Measurable Costs.** On January 21, 2003, the Water Department submitted a one-page letter (plus copies of past annual report pages) containing, inter alia, projected salary costs for the Town personnel (i.e., Town Manager, Public Works Director, and miscellaneous labor) -- costs that had not been fully included in the Water Department's original rate filing. Furthermore, at approximately the same time, the Secretary/Clerk, who had been employed (at 40

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<sup>1</sup> The Town's Public Works Department is comprised of three departments: Highway, Water and Sewer. In 2001 the wages of the Secretary/Clerk and of the Operator/Trainee were divided between the Water and the Sewer Divisions. The wages of the Public Works Director were paid through the Highway Department. *See: 2001 Annual Report, W-6.*

hours per week) to keep records and operate the billing system, and who possessed the other operator's license, left employment. (The Water Department is currently seeking applicants for an "administrative assistant" position in the Public Works Department, who will work 30 hours per week and be responsible for the combination of water and sewer responsibilities.)

On February 10, 2003, the Public Advocate wrote to the Water Department with questions about the materials submitted by the Water Department in its January 21 letter, asking for more specific salary data, data about equipment rental, and data about electric consumption. In a telephone conversation following the Water Department's receipt of the 2/10/03 letter, the Town Manager indicated that the Water Department would not be able to provide the data and information requested, either because no records are available or because there is no one available now at the Water Department who might be able to find the records that contain the requested data. After some discussion, the Water Department suggested that the Public Advocate and the PUC Staff take on responsibility for amending the Water Department rate filing, and make changes based either on the information now available or on any additional information that might be gathered from independent sources.

In an effort to establish the Water Department's revenue requirement for this proceeding, the Public Advocate and the Commission's Advisory Staff have had to rely on annual figures for the Department's revenues and expenses that, in some cases, do not reflect actual experience and that in many cases are only estimates, or projections adopted for purposes of establishing the budget for the Department. (In order to arrive at a determination of 2003 purchased power costs, the Public Advocate consulted with Central Maine Power, examining past annual power consumption and the change in the rates for delivery and supply.) The parties, including the Water Department, acknowledge that, for some accounts, changes in actual expenses are not known and/or are difficult to measure. Nevertheless, because there are sufficient grounds to approve an increase in the Department's revenues, in this proceeding (only), parties are willing to rely, in the short term, on reasonable estimates and projections of the Department's revenues and expenses.

**Next Rate Filing Subject to 35-A M.R.S.A. Section 307.** In consideration of the parties' reliance on estimates, the Water Department promises that, when it next files for a change in its water rates, it will not file for that rate change under 35-A M.R.S.A. Section 6104, or any subsequently enacted section of Title 35-A. Instead, the Water Department will submit its next rate filing to the Public Utilities Commission under 35-A M.R.S.A. Section 307, and in the general format required by Chapter 120 of the Commission's Rules. In this agreement the Public Advocate and the two customers agree to do all that is necessary to process the Water Department's next rate filing within 12 weeks of the date that it is filed.

### **III. STIPULATION PROVISIONS**

**1. Record.** The record on which the Commission may base its findings and decision in this proceeding consists of the Company's original rate filing pursuant to 35-A M.R.S.A. Section 6104, the information provided at the January 14<sup>th</sup> technical conference, the January 21 letter from the town of Dixfield, and the information and data provided orally to the Public Advocate and the PUC Staff after February 10, 2003.

**2. Comprehensive Water System Plan.** The Water Department will take the steps necessary to develop a comprehensive plan for the maintenance and upgrading of its water system. The plan should recommend measures to address the problem of lead in Dixfield water and should include recommendations for extended maintenance -- e.g., replacing services and/or repairing hydrants. The steps involved in developing the comprehensive plan should include seeking grant funds to pay for assistance in development of such a comprehensive plan, putting the plan-development work out to bid, selecting a consulting engineer, and developing the plan. By December 15, 2003, the Water Department will provide a copy of the new comprehensive plan to the Technical Division of the Public Utilities Commission, and make a copy of the comprehensive plan available to water customers and the general public at the Dixfield Town Office.

**3. Internal Control Measures.** As recommended in the Water Department's 2001 Auditor's Report, the Water Department will implement certain internal control measures in order to ensure that the Department's accounting system will capture the actual costs of the Water Department's operations. Specifically, the Water Department will institute internal controls by dividing duties among Department personnel so that no single individual will handle a transaction completely from beginning to end. A proper segregation of duties for recording transactions will help to detect errors and provide accuracy in developing the Department's financial statements.

**4. Recordkeeping; Separate Time Records.** The Water Department agrees that it will require that each of its employees will keep weekly time records that will show both (a) the amount of time that the employee has spent on work for the Water Department, the sewer division, or the highway division; and (b) when working on Water Department projects, whether the work time was devoted to construction or capital improvement projects, or on maintenance work.

**5. Allocation of Salaries and Wages.** In its Annual Report to the PUC -- starting with 2003 Annual Report to the PUC -- the Water Department will show the following information for each employee or laborer: (a) the amount of time spent working for each of the three municipal divisions: water, sewer, and highway; (b) the total annual amount of work time; (c) the amount of time devoted to Water Department capital improvement or construction projects; and (d) the total amount of time devoted to operation and maintenance work at the Water Department.

**6. Allocation of Joint and Common Costs.** The Water Department will identify each account in which it incurs costs that are jointly benefited, or are in common with, the Town of Dixfield and other municipal divisions. In its Annual Report to the PUC -- starting with the 2003 Annual Report to the PUC -- for each account, the Water Department will present (a) the total amount of joint or common costs; (b) the amount of joint or common costs allocated to the Water Department; and (c) a concise description of the basis for the allocation.

**7. Plan for Coverage of Operator Licensing Requirement.** Because water utilities are generally required to have a licensed operator available during all operating shifts, the Water Department is required to employ two Class II licensed operators. Title 35-A M.R.S.A. Section 2630 requires that if a supplier of water loses its licensed operator, it shall secure a new licensed operator, or enter into a contract with a licensed operator of proper classification until a new operator has been employed. Currently, the Water Department is relying on this provision and contracting with two non-employee licensed operators. On or before October 15, 2003, the Water Department will file a letter at

the Commission explaining how it will satisfy the statutory requirement of coverage by two licensed operators. Before filing that letter, the Water Department will investigate the possibilities of using personnel from other water utilities to satisfy coverage requirements.

**8. Addressing Problem Involving Lead in Water.** In order to address the continuing problem involving a higher-than-normal amount of lead in its water, the Water Department agrees that it will continue to take the following steps: First, it will continue to treat the water that it produces with soda ash. Secondly, in the course of its construction projects, or in the course of its maintenance and/or repair work, whenever the Water Department is doing work on its transmission mains or water services, the Water Department will replace any lead pipes and/or lead joints that are involved in the work.

**9. Road Construction, Main Replacement and Paving.** The customers have expressed concern about the apparent past failure by the Water Company's prior management team to communicate and coordinate with the town highway department and the State Department of Transportation about plans for road construction and main replacement. The parties agree that, to the extent that such coordination occurs, the Water Department will incur fewer costs by avoiding situations where, in order to replace water mains, recently reconstructed roads are dug up and paved a second time. Therefore, as part of this Stipulation, the Water Department agrees that, in order to save money for both ratepayers and taxpayers, it will coordinate its water main replacements or installations with state (and town) plans for road improvements, road repairs, or road paving. Specifically, the Water Department agrees that twice a year (i.e., prior to March 15 and prior to September 15), it will contact the local office of the state Department of Transportation (DOT) (Tel: 562-4222) and review both the "Biennium Transportation Improvement Plan" (BTIP) and the DOT "20-year plan" to determine which Dixfield roads are scheduled for paving or reconstruction.

**10. Water Meters.** The customers on the petition have concerns about the fact that presently not all the residential ratepayers have water meters. The concern is that those customers without meters may be in a situation where they pay less for the water they consume than metered customers pay. Therefore, as part of this Stipulation, the Water Department agrees to identify the specific residential customer accounts whose water consumption is not measured by meter. In addition, the Water Department agrees that, before it files for its next rate increase, it will provide water meters for each of those unmetered accounts; or state in the rate filing why certain residential accounts are not metered.

**11. Use of Uniform System of Accounts.** The Water Department agrees that it will continue to use the uniform system of water accounts (a) to keep its annual records, and (b) to present its next rate filing to the Commission.

**12. Revenue Requirement.** For the purpose of resolving this proceeding, the parties have carefully reviewed the Water Department's proposed revenue requirement the parties agreed that the Water Department's revenue requirement (or annual operating revenues) shall be \$308,245, or 21.85 % over the Water Department's 2001 test-year revenues of \$252,965. Attached as Exhibits 1 and 2 to this Stipulation are the Operating Statement and Water Utility Expenses that underlie the increase adopted in this Stipulation. Because the Water Department is currently unable to identify changes in salaries and wages, purchased power, chemicals, Contracts-Other and miscellaneous expenses, the

parties have derived this revenue requirement using some figures that are based only on their best estimates of future costs. In order to ensure that the Water Department has sufficient funds, the estimates have been conservative on the high side.

**13. Effective Date for Rates.** The parties agree that the Department's new water rates, necessary to give the Water Department the opportunity to recover the above-stated pro forma revenue requirement, will go into effect on April 1, 2003.

**14. Next Rate Proceeding.** The Water Department agrees that when it next files for a change in its water rates, it will submit its rate filing to the Commission under 35-A M.R.S.A. Section 307. Furthermore, the Water Department agrees that that rate filing will be based on the Department's actual annual expenses, and on the allocations identified in paragraphs 5 and 6 above.

The Water Department agrees to submit that filing under Section 307 expressly so that the parties to this case and the Commission may investigate the grounds for proposed rate change without first having to submit a petition under 35-A M.R.S.A. Section 6104. Furthermore, the Water Department is agreeing to submit that rate filing to the Commission under Section 307 also because the Water Department recognizes that some of the expense figures relied on in this proceeding are based only on Water Department estimates or projections, rather than on test-year data, and known and measurable adjustments thereto.

In an effort to ensure that the Department's next rate filing is processed in an efficient and expedient way, the Public Advocate and the two customer parties hereto agree that they will do all that is necessary to process that next filing before the Commission within 12 weeks of the date on which it is filed.

#### **IV. STANDARD STIPULATION PROVISIONS**

**1. Rejection of Portion Constitutes Rejection of Whole.** If the Commission does not accept this entire Stipulation without material modification, then the Stipulation shall be null and void, and will not bind the parties in this proceeding.

**2. No Precedent.** The making of this Stipulation by the parties shall not constitute precedent as to any matter of fact or law, nor, except as expressly provided otherwise herein, shall it foreclose any party from making any contention or exercising any right, including the right of appeal, in any other Commission proceeding or investigation, or in any other trial or action. This provision does not release the Water Department from its obligation under this Stipulation to submit its next rate filing to the Commission under 35-A M.R.S.A. Section 307.

**3. Examiner's Report.** The parties agree to waive the provisions of Section 752(b) of the Commission's Rules of Practice and Procedure, requiring that any Examiner's Report be in writing and that the parties be afforded an opportunity to file exceptions or comments thereon. The parties thereby intend to permit the Advisor either to provide an oral Examiner's Report to the Commission at the deliberative session to be held in this Docket, or, if the Advisors so wish, to provide a written

Examiner’s Report to the Commission with the parties waiving the right to file exceptions or comments thereto.

**IN WITNESS WHEREOF**, the parties have signed this Stipulation Agreement, requesting that it be approved by the Public Utilities Commission without significant modification.

Dixfield Water Department

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Nanci A. Allard  
Town Manager, Town of Dixfield  
and Chief Officer of the  
Dixfield Water Department

Public Advocate

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
William C. Black  
Deputy Public Advocate

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Sonya Fuller  
Petitioner

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Brenda Turbide  
Petitioner